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CHEVRON U.S.A. INC.,
a Pennsylvania corporation

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA – WESTERN DIVISION

MARK SNOOKAL, an individual,

Plaintiff,

vs.

CHEVRON USA, INC., a California
Corporation, and DOES 1 through 10,
inclusive,

Defendants.

Case No. 2:23-cv-6302-HDV-AJR

**DEFENDANT CHEVRON U.S.A. INC.'S
TRIAL BRIEF RE: PLAINTIFF'S
PROPOSED JURY INSTRUCTION
NO. 4: CACI 3935 PREJUDGMENT
INTEREST**

District Judge: Hon. Hernán De. Vera
Magistrate Judge: Hon. A. Joel Richlin

Action Filed: August 3, 2023
Trial Date: August 19, 2025

1 **I. INTRODUCTION**

2 Plaintiff Mark Snookal’s Proposed Jury Instruction No. 4, and corresponding
3 proposed question on the jury verdict form, are inapplicable to this case. The proposed
4 instruction is based on CACI No. 3935, derived from California Civil Code section
5 3288,¹ which states: “In an action for the breach of an obligation not arising from
6 contract, and in every case of oppression, fraud, or malice, interest may be given, in the
7 discretion of the jury.” Based on the statute, in order for CACI No. 3935 to apply, the
8 case must involve breach of a non-contractual obligation, or oppression, fraud, or malice.
9 None of these exist in the present case. Plaintiff’s request for a jury instruction and
10 special verdict question asking the jury to decide regarding an award of prejudgment
11 interest should be denied.

12 **II. PREJUDGMENT INTEREST IS NOT AUTHORIZED UNDER**
13 **CALIFORNIA CIVIL CODE SECTION 3288 BECAUSE THIS CASE IS**
14 **FUNDAMENTALLY CONTRACTUAL AND THERE IS NO OPPRESSION,**
15 **FRAUD, OR MALICE.**

16 This case involves a single claim of disability discrimination arising from
17 Plaintiff’s employment relationship with his former employer. It is well-settled that the
18 employment relationship, even where it is terminable at will and upon terms dictated by
19 the employer, is “fundamentally contractual.” Voris v. Lampert, 7 Cal. 5th 1141, 1148
20 (Cal. 2019); Hess Collection Winery v. Agricultural Labor Relations Bd., 140 Cal. App.
21 4th 1584, 1600 (Cal. Ct. App. 2006).

22 In this case, there was a judicial ruling that there is no evidence of oppression,
23 fraud, or malice—it is not at issue. “There is nothing in the record to even suggest
24 malice on the part of Chevron. . . . There is no basis for a finding of punitive damages.”
25 Dkt. 63, 15:7-8 (emphasis added).

26 ¹ “In diversity jurisdiction, state law governs all awards of pre-judgment interest.”
27 Mutuelles Unies v. Kroll & Linstrom, 957 F.2d 707 (9th Cir. 1992) (citing Lund v.
28 Albrecht, 936 F.2d 459, 464-65 (9th Cir. 1991).

1 Since the issues before the jury do not involve a non-contractual obligation, nor
2 oppression, fraud, or malice, CACI 3935—and therefore, Plaintiff’s Proposed Jury
3 Instruction No. 4—is inapplicable.

4 **III. PREJUDGMENT INTEREST IS NOT AVAILABLE UNDER CALIFORNIA**
5 **CIVIL CODE SECTION 3287 BECAUSE THE AMOUNT OF DAMAGES IS**
6 **NOT CERTAIN AND DEPENDS ON THE JURY’S DETERMINATION OF**
7 **CONFLICTING EVIDENCE.**

8 An employee may only recover prejudgment interest if damages are “certain” or
9 “capable of being made certain by calculation.” Wisper Corp. v. California Commerce
10 Bank, 49 Cal. App. 4th 948, 957-58 (Cal. Ct. App. 1996) (citing Cal. Civ. Code, § 3287).
11 Damages are “certain” when the employer “actually knows the amount owed or from
12 reasonably available information could . . . have computed that amount.” Roodenburg v.
13 Pavestone Co., L.P., 171 Cal. App. 4th 185, 191 (Cal. Ct. App. 2009). Where the amount
14 of economic damages is not readily determinable, it “weighs against awarding
15 prejudgment interest.” Navarro v. DHL Global Forwarding, 2017 U.S. Dist. LEXIS
16 211126, *2 (C.D. Cal. Dec. 22, 2017) (citing Domingo v. New England Fish Co., 727
F.2d 1429, 1446 (9th Cir. 1984)).

17 Prejudgment interest is not available where the amount of damages “depends upon
18 a judicial determination based upon conflicting evidence and is not ascertainable from
19 truthful data.” Wisper, 49 Cal. App. 4th at 960 (quoting Fireman's Fund Insurance Co. v.
20 Allstate Ins. Co., 234 Cal. App. 3d 1154, 1173(1991) (internal quotations and citations
21 omitted). In other words, prejudgment interest is not recoverable if “the amount of
22 damages depends upon a judicial determination based upon conflicting evidence and
23 cannot be resolved except by account, verdict or judgment.” Western Air Charter, Inc. v.
24 Schembari, 2019 U.S. Dist. LEXIS 37127, *6 (Mar. 7, 2019) (citing Duale v. Mercedes-
25 Benz USA, LLC, 148 Cal. App. 4th 718, 729; Stein v. S. Cal. Edison Co., 7 Cal. App. 4th
26 565, 573 (1992)(emphasis added)).

27 Here, the amount of Plaintiff’s damages are clearly in dispute—nothing is certain
28 about the calculation of Plaintiff’s alleged economic damages. Not only is Plaintiff’s

1 entitlement to economic damages in question, but also the method of calculating
2 Plaintiff's economic damages, if any. Plaintiff claims that he is entitled to economic
3 damages from the date of the offer for the expatriate assignment for the Reliability
4 Engineering Manager ("REM") position in Escravos, until a projected date of retirement
5 in 2035, based on total assumed compensation, including the REM base salary, Escravos
6 location premium, and tax equalization benefits, as well as a potential future promotion to
7 a higher salary grade. All of these factors are in dispute.

8 The date that Plaintiff became entitled to alleged economic damages is in dispute.
9 Even though Plaintiff's offer letter indicated a projected start date, Plaintiff's own email
10 correspondence indicated that his anticipated travel date was not until August 31, 2019.
11 Plaintiff contends that he would have been promoted to a higher pay salary grade after he
12 assumed the REM position. However, evidence has and/or will be presented that
13 Plaintiff had no reasonable expectation of a promotion to a higher salary grade. The
14 dates and amounts of Plaintiff's alleged damages would depend on the jury's
15 determination of these issues.

16 The duration of Plaintiff's economic damages is likewise in dispute. Plaintiff
17 contends that that he would have continued to work at Chevron U.S.A. "for a long time"
18 if it weren't for the events at issue in this case, and would have continued to work in
19 expatriate assignment positions until he retired. Chevron U.S.A. presented evidence that
20 there is no guarantee that an employee will receive an expatriate assignment offer, that
21 they will continue to work in the position after they receive an offer, or that they will be
22 able to receive another expatriate assignment offer after completing the term of their
23 assignment. Additionally, Plaintiff never applied for another expatriate assignment after
24 the offer for the REM position was rescinded. Indeed, Plaintiff resigned to work for
25 other employers who did not have expatriate employment opportunities with similar
26 earning potential, though Plaintiff earned better compensation and benefits with those
27 employers. A jury will need to determine whether Plaintiff made reasonable efforts to
28 mitigate his damages following the rescission of the REM offer in order to determine

1 whether and in what amount to award damages, if any.

2 Chevron U.S.A. also presented evidence that due to a company-wide
3 reorganization, the employee who took the position after Plaintiff's offer was rescinded,
4 Amir Zaheer, was moved out of the position in October 2020. The employee currently in
5 the position, Cesar Malpica, has only continued in the position for longer than 4 years
6 due to another company-wide reorganization. Mr. Malpica's position is currently
7 designated as a "must move," meaning that in connection with the upcoming
8 reorganization, he will no longer be working in the position. The jury must decide
9 whether it was likely that Plaintiff would have continued working in the REM position,
10 and/or would have moved into other expatriate positions in the future, in order to
11 determine the amount of Plaintiff's economic damages.

12 Furthermore, the methodology for calculating the amount of Plaintiff's alleged
13 economic damages is in dispute. Plaintiff contends that he is entitled to the Escravos
14 location premium and tax equalization benefits, even after the offer was rescinded, and he
15 did not experience the hazards these benefits were intended to offset. However, evidence
16 in this trial has established that location premiums and tax equalization benefits vary
17 depending on the assignment location and also change over time. In 2019, Escravos was
18 one of two locations with the highest location premiums, with premiums ranging from
19 approximately 10% to 55%. Mr. Malpica testified that Escravos currently carries the
20 highest location premium.

21 There is no way to speculate whether Plaintiff could have retained the REM
22 position in October 2020 when Mr. Zaheer could not, or whether Plaintiff would have
23 been considered a "must move" in connection with the pending reorganization this year.
24 The location of a new expatriate assignment (and the associated location premium), if
25 indeed there could have been one, is impossible to speculate—there is no telling what
26 locations or positions would have been available to Plaintiff at that time or another time,
27 or whether he would have been selected for those positions in competition against other
28 candidates. Whether and for how long the location premiums should apply, if at all, is an

1 issue for the jury to decide.

2 Since Plaintiff's damages are not certain and are not calculable without the jury's
3 determinations in this matter, prejudgment interest is not available under California Civil
4 Code section 3287. See Navarro v. DHL Global Forwarding, 2017 U.S. Dist. LEXIS
5 211126, *4-5 (C.D. Cal. Dec. 22, 2017) (finding damages uncertain and incalculable
6 where employer had no way of knowing whether and when employee would be hired by
7 a different employer or what his future compensation would be).

8 **IV. CONCLUSION**

9 Based on the foregoing, Chevron U.S.A. respectfully requests that the Court deny
10 Plaintiff's request for Plaintiff's Proposed Jury Instruction No. 4 (CACI 3935) and for a
11 corresponding question on the jury verdict form asking the jury to decide if prejudgment
12 interest should be awarded.

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14 Dated: August 21, 2025

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